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19 (Appearing on behalf of
20 Illinois Central Railroad
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18 (Appearing on behalf of
19 Intervenors)

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22

1 APPEARANCES: (Continued)

2 MR. CRAIG R. HEDIN
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5 (Appearing on behalf of
6 Intervenors via teleconference)

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(Appearing on behalf of
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I N D E X

WITNESS

DIRECT

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None .

EXHIBITS

MARKED

ADMITTED

None .

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PROCEEDINGS

JUDGE JONES: Good morning. I call for hearing Docket Number 07-0446. This is titled in part Enbridge Pipelines (Illinois), L.L.C., application pursuant to Sections 8-503, 8-509 and 15-401 of the Public Utilities Act to construct and operate a petroleum pipeline and for other relief.

At this time, as before, we will ask the parties to enter your respective appearances orally for the record. Most parties who will be entering appearances are on the phone, but not all. If you entered an appearance at the prehearing conference previously, then you do not need to give us your business address and business phone number today unless you want to.

So with that we will start with the appearance or appearances on behalf of the applicant Enbridge Pipelines

MR. AMBROSE: Good morning, Your Honor. This is Gerald A. Ambrose and Darryl Reed of Sidley & Austin in Chicago and Joel Kanvik of Enbridge Energy in Houston, and our appearances were entered before

1 so all that information is in the record.

2 JUDGE JONES: Thank you. Commission Staff?

3 MS. VON QUALEN: Janis Von Qualen and James
4 Olivero on behalf of the Staff witnesses of the
5 Illinois Commerce Commission, and our appearances
6 were previously entered as well.

7 JUDGE JONES: All right. Thank you. If anyone
8 is having any trouble hearing anyone on this end or
9 anyone else, just interrupt us and let us know and we
10 will see what we can do about that.

11 All right. We will continue with the
12 appearances. I am temporarily just going to work off
13 the list that was made from the prehearing
14 transcript. We will look to Union Pacific Railroad
15 Company. Are there any appearances to be entered on
16 behalf of that entity at this time? Let the record
17 show no response.

18 Are there appearances to be entered by
19 Mr. Pliura?

20 MR. PLIURA: Yes, this is Tom Pliura on behalf
21 of a variety of Intervenors. I previously entered my
22 appearance and you have my address.

1 JUDGE JONES: All right. Thank you. Mr.
2 Robinson? All right. Let the record show no
3 response, at least at this time.

4 Mr. Healey?

5 MR. HEALEY: Thank you. Thomas J. Healey,
6 H-E-A-L-E-Y, on behalf of Illinois Central Railroad
7 Company, 17641 South Ashland Avenue in Homewood,
8 Illinois 60430, phone is (708) 332-4381.

9 JUDGE JONES: Thank you. Walker Law Firm?

10 MR. HOLSTINE: Yes, this is Andy Holstine. I
11 am appearing on behalf of the Walker Law Firm and the
12 Temple Trust and the Nina Armstrong Trust.

13 JUDGE JONES: Thank you. And I believe we have
14 at least one other appearance, perhaps two, to be
15 entered by those who are physically present in
16 Springfield. There are probably some others on the
17 phone, too. Springfield-wise do we have an
18 appearance to be entered?

19 MR. E. HEDIN: This is Elliott Hedin on behalf
20 of Oelze Equipment Company, LLC. I am with Brown,
21 Hay and Stephens, 205 South Fifth Street, Suite 700,
22 Springfield, Illinois 62705. My telephone number is

1 (217) 544-8491.

2 JUDGE JONES: Thank you. Are there other
3 appearances to be entered at this time by others who
4 are participating by telephone?

5 MAYOR SCHWARTZ: Yes. I would enter Village of
6 Downs, Mayor Jeffrey A. Schwartz, that's 211 South
7 Seminary Street, Downs, Illinois, telephone (309)
8 378--

9 MR. ROBINSON: Judge, this is Jon Robinson for
10 Raymond and Michelle Preiksaitis calling in. My
11 address is 202 South Franklin Street, Decatur,
12 Illinois. My phone is (217) 429-4296.

13 MR. C. HEDIN: Judge, this is Craig Hedin,
14 attorney for the Illinois Oil & Gas Association,
15 H-E-D-I-N, address is Post Office Box C, 108 South
16 Ninth Street, Mt. Vernon, Illinois 62864. Telephone
17 number is area code (618) 242-3310.

18 JUDGE JONES: And have you filed an intervening
19 petition at this point?

20 MR. C. HEDIN: Yes, I have filed a petition to
21 intervene.

22 JUDGE JONES: Thank you. The previous

1 appearance, Mayor, I don't think we caught all your
2 information. You are cutting out on us a little bit.
3 Are you on a speaker?

4 MAYOR SCHWARTZ: Yes, sir, I am.

5 JUDGE JONES: Would you mind going off that
6 speaker for just a moment and re-enter that
7 information for our court reporter?

8 MAYOR SCHWARTZ: Yes. Mayor Jeffrey A.
9 Schwartz, S-C-H-W-A-R-T-Z, the Village of Downs. We
10 are a petitioner intervening, 211 South Seminary
11 Street, Downs, Illinois 61736. The Village Hall
12 phone number is (309) 378-3221. We are represented
13 by the law offices of Mercer Turner. Did that copy?

14 JUDGE JONES: Yes, thank you. Are there other
15 appearances to be entered by those who are on the
16 phone at this time?

17 MR. RUUB: Yes, Eric Ruub. Can I go ahead?

18 JUDGE JONES: Sure, go ahead.

19 MR. RUUB: I am sorry. Eric Ruub and it is
20 E-R-I-C, last name is spelled R-U-U-B, two Us and one
21 B. I was a first assistant state's attorney up in
22 the county of McLean representing the County of

1 McLean as an Intervenor in the case. My address is
2 Suite 401, Post Office Box 2400, 1115 East Washington
3 Street, Bloomington -- 702-2400 and my phone number
4 is (309) 888-5110. Thank you.

5 JUDGE JONES: Thank you. Other appearances by
6 phone?

7 MR. BEYERS: Yes, my name is Bob Beyers, B as
8 in boy, E-Y-E-R-S. I am an attorney with the law
9 firm of Robert Dodd and Associates in Champaign. The
10 address is 303 South Mattis, M-A-T-T-I-S, Avenue,
11 Suite 201, Chase Bank Building, Champaign, Illinois
12 61821. Phone number is (217) 356-6363, and my e-mail
13 address since I have filed as an Intervenor or on
14 behalf of Intervenors but didn't receive an e-mail
15 contact of this meeting, so my e-mail address, if
16 needed, is rjbeyers@doddlaw.net, and I represent
17 several different Intervenors.

18 JUDGE JONES: All right. Thank you, Mr.
19 Beyers. Other appearances?

20 MR. TURNER: This is Mercer Turner. I am an
21 attorney in Bloomington, Illinois.

22 JUDGE JONES: And could you give us your

1 business address and phone number, please?

2 MR. TURNER: Mercer Turner. I am an attorney
3 in Bloomington, Illinois, and my street address for
4 my office is 202 North Prospect Road. Are you
5 hearing me?

6 JUDGE JONES: Yes.

7 MR. TURNER: 202 North Prospect Road, Illinois
8 61704, area code 309 --

9 JUDGE JONES: I think you did cut out on us
10 there toward the end. Are you on a speaker?

11 MR. TURNER: Yes.

12 JUDGE JONES: Could you give us that phone
13 number again, please?

14 MR. TURNER: Yes. This is Mercer Turner. I
15 have filed as an attorney position for intervention
16 for several parties. My address is 202 North
17 Prospect Road, Bloomington, Illinois 61704. The
18 telephone number is area code (309) 662-3078.

19 JUDGE JONES: Thank you. Are there other
20 appearances to be entered by persons on the phone
21 this morning? Okay. Let the record show there are
22 not, at least at this point in time.

1 Are there any other appearances to be
2 entered by those who are present in Springfield?

3 MR. GREER: My name is Daniel Greer, manager of
4 Kraft Farms, LLC. My address and phone number were
5 on the record from October 5.

6 JUDGE JONES: Thank you. All right. Are there
7 any other appearances? Let the record show no
8 response.

9 Let me back up a minute here. Mr.
10 Beyers, is your e-mail address on the intervening
11 petition that you filed on behalf of those?

12 MR. BEYERS: Yes, it was.

13 JUDGE JONES: Thank you. All right. We have
14 the appearances for the record. If others join the
15 call, they will be permitted to enter their
16 appearance at that time.

17 The last time we met there were some
18 scheduling discussions on the record as well as off
19 the record among certain of the parties. In any
20 event, a status hearing was scheduled at that time
21 for today. As the parties are aware, the scheduling
22 also involved a filing date for submission of direct

1 testimony by petitioner Enbridge Pipelines
2 (Illinois). There was also some scheduling put into
3 place with respect to a motion to dismiss. That
4 scheduling consisted of a filing date for the motion
5 as well as any responses to that motion. The
6 response date is in the record. It has not yet
7 occurred. We left open any further scheduling
8 relative to that motion such as any reply. So that
9 is something we will be taking a look at today during
10 this status hearing.

11 As far as other scheduling goes, I
12 will first just ask the question, have the parties
13 agreed to any scheduling to be used in this docket?

14 MR. TURNER: This is Mercer Turner. I have
15 proposed in writing a schedule for Intervenor and I
16 have in fact talked to, oh, I don't know, half a
17 dozen or so other law firms that are involved in this
18 matter. I do not believe there is any objection to
19 the schedule that I have proposed. ...Intervenor
20 which I have a suggestion for from other
21 intervening...

22 JUDGE JONES: Are you still on speaker?

1 MR. HEALEY: Can I suggest that anyone speaking
2 pick up the phone rather than talk on speaker? I
3 think we will probably allay a lot of these problems.

4 JUDGE JONES: Who just spoke?

5 MR. HEALEY: That was Tom Healey.

6 JUDGE JONES: It may depend on the phone or the
7 phone system, but I think in a couple instances we
8 have run into problems hearing those who are on a
9 speaker phone, including Mr. Turner. In any event,
10 so probably, Mr. Turner, it would be helpful if you
11 would not use the speaker, at least while you are
12 speaking to the group.

13 But as I understand what you are
14 saying --

15 MR. TURNER: I understand. Now that I have
16 picked up my -- actually I can hear you great on the
17 speaker. Once I picked up the piece, I can't hardly
18 hear you at all.

19 But, in any event, I was indicating
20 that I had proposed the schedule for the family
21 farmer Intervenor and have spoken with about half a
22 dozen other attorneys who are representing family

1 farmers. And I don't speak for them, but it doesn't
2 appear as though to me, based on my conversation with
3 them, that there would be much disagreement with the
4 schedule which I have suggested from the attorneys
5 who have intervened on behalf of family farmers.

6 JUDGE JONES: Okay, thank you.

7 MR. BEYERS: This is Bob Beyers. I not only
8 don't object, I join that motion that he has made.

9 JUDGE JONES: I don't think there is a motion
10 there yet, but in any event --

11 MR. BEYERS: The motion that's been filed.

12 MR. AMBROSE: Your Honor, this is Jerry Ambrose
13 on behalf of Enbridge.

14 JUDGE JONES: Yes, sir.

15 MR. AMBROSE: There is a motion that Mr. Turner
16 e-mailed out yesterday afternoon which is both
17 untimely and improper.

18 JUDGE JONES: All right. Let me interrupt you
19 just a minute. We will back up. Really I am just
20 looking -- the question I asked is whether there is
21 any agreed-to schedule out there now. It appears
22 there is not. There may be schedules out there that

1 some parties agree and others do not.

2 So I think that given that information
3 we will kind of move forward here to the next step in
4 the process. I think probably what we need to do
5 next is try to get a feel for how many competing
6 schedules are actually at play right now, to get a
7 feel for what we need to do next to get these
8 scheduling proposals addressed.

9 So we are going to try to check in
10 with the parties and see what these proposals look
11 like. To the extent that you have arguments to make
12 in support of your own proposal or somebody else's
13 proposal or arguments to make in opposition to
14 someone else's proposal, please hold off on the
15 arguments.

16 Just too many parties to take
17 arguments piecemeal just yet. Everyone will get an
18 opportunity in one form or another to state your
19 position with respect to what type of schedule, what
20 scheduling dates need to be used in this matter. But
21 we are going to try to have to approach this kind of
22 on a step-by-step basis to do that.

1 So I think the original question was
2 whether there is an agreed-to schedule which we have
3 in most cases, but here we do not.

4 MR. AMBROSE: Excuse me, but somebody has a
5 radio or something going on that is cutting into
6 this. Can you kill that?

7 JUDGE JONES: Who just spoke?

8 MR. AMBROSE: This is Jerry Ambrose. We were
9 getting a lot of background cross talk and it sounded
10 like a radio in the background.

11 JUDGE JONES: Let me mention here also, just
12 because we have a lot of parties who are on the
13 phone, if you are going to speak, whoever you may be,
14 please identify yourself before you do so, so that
15 others will know who is speaking and so our court
16 reporter will attribute your comments to you rather
17 than somebody else.

18 It was noted that there is a motion on
19 file with respect to scheduling that was filed
20 yesterday. And that is one proposal that is of
21 record since that time. Let's turn to the counsel
22 for the petitioner Enbridge Pipelines. Mr. Ambrose,

1 do you have a scheduling proposal to offer at this
2 time?

3 MR. AMBROSE: Yes, I do, Your Honor. And we
4 have had some discussions with Staff about the
5 schedules and are not able to agree. So here is our
6 proposal. We propose that the Intervenors file any
7 testimony they may have on November 14. We propose
8 that the Staff file its testimony on December 5. We
9 propose that Enbridge file any reply or rebuttal
10 testimony on December 31, and that the hearings if
11 necessary in the case be held mid-January, maybe the
12 16th or 17th of January, 2008.

13 I note that our testimony has been
14 filed and served as of October 5, so it's all been
15 out there for people. That is our scheduling
16 proposal.

17 JUDGE JONES: All right. Thank you,
18 Mr. Ambrose. All right. Let's turn to other
19 parties. Does Commission Staff, do you have a
20 scheduling proposal to offer at this time?

21 MS. VON QUALEN: This is Jan Von Qualen. Yes,
22 Staff would propose that Staff and Intervenor direct

1 testimony be filed on December 19 and that a status
2 hearing be held on January 8 in order to determine
3 further dates for scheduling.

4 JUDGE JONES: Okay, thank you. Ms. Von Qualen,
5 has that schedule been circulated to anybody prior to
6 today?

7 MS. VON QUALEN: I have spoken to a couple of
8 the Intervenors and I have spoken to the company
9 about it, but everyone has not heard of this schedule
10 before. Several Intervenors were not contacted.

11 JUDGE JONES: All right. Thank you. To kind
12 of recap at this point, we have a schedule that has
13 been advanced by Mr. Ambrose today on behalf of
14 Enbridge and we have some scheduling that has just
15 been proposed on the record by counsel for the
16 Commission Staff. And as noted previously by a
17 couple of the parties, namely Mr. Turner and also Mr.
18 Beyers, there was a motion of certain Intervenors
19 pertaining to the schedule for discovery and
20 testimony presented by the Intervenors which was
21 circulated yesterday. So there are at least three
22 schedules, competing scheduling proposals, that are

1 in play at this point in time.

2 I realize that some of the other
3 parties may support, favor, one of those above
4 schedules over the other and we will be finding out
5 about that. Before we do, I want to see if there are
6 any other competing scheduling proposals that any of
7 the parties wish to advance. So are there? All
8 right. Let the record show no response.

9 All right. So as noted we essentially
10 have three scheduling proposals that have either been
11 circulated to the parties yesterday or were made on
12 the record for this morning's purposes. And it
13 appears these are the three scheduling proposals that
14 are the entire population of actual proposals.

15 So I think what we will do next is
16 give the parties an opportunity to present your
17 arguments or your positions with respect to these
18 scheduling proposals that are in play. While they do
19 that, we will, I think, first give the proponents of
20 these various schedules an opportunity to explain why
21 you support your own proposal.

22 The motion that was filed yesterday

1 contains those arguments or positions, but we at this
2 point have not heard of record from Mr. Ambrose or
3 Staff counsel with respect to their reasons for
4 advancing the schedules that they have done, have
5 advanced.

6 So that's what we will do next. We
7 will hear from them about why they support their own
8 schedules. And at that point then we will give all
9 the parties an opportunity to comment on each other's
10 scheduling proposals and that would include any
11 parties beyond those three.

12 So having said that, Mr. Ambrose,
13 would you like to comment on why you believe the
14 schedule that you proposed is appropriate?

15 MR. AMBROSE: Well, certainly. Thank you, Your
16 Honor. The schedule we propose obviously is one that
17 we believe will move this matter along and get it
18 resolved within a reasonable period of time while
19 giving everybody a fair and reasonable chance to make
20 their positions known.

21 As I pointed out when I set out the
22 schedule, our testimony has been in everybody's hands

1 since October 5. That's three and a half weeks. Our
2 application was filed in mid-August. So anybody who
3 read the application has been fully informed for
4 quite awhile. The application is a full and complete
5 description of the project and the reasons why it
6 should be approved.

7 We believe that the issues are fairly
8 simple and straight forward. They are the issues
9 that are presented in the Common Carrier by Pipeline
10 Law for the certification of an applicant, need,
11 public convenience and necessity, fitness,
12 willingness and ability and the question of eminent
13 domain power. Those are the issues in this case.

14 There is no great complexity about any
15 of those issues for people to grapple with. Either
16 you believe there is a need for more crude oil in
17 this economy when we are facing \$94 a barrel oil
18 prices in the world market or you don't.

19 If you have got some issues about
20 Enbridge's fitness and willingness, those are easy to
21 see as well. Arguments about the route, the route is
22 clearly expressed and set forth in our information.

1 That's the public convenience and necessity. Anybody
2 can respond to that very easily.

3 And the question of eminent domain
4 power, we have already made a prima facie case with
5 the eminent domain power being granted to us if we
6 are certificated. So anybody who has an argument with
7 it as a matter of principle and law should be able to
8 make that very distinctly and effectively very
9 shortly.

10 Now, we understand that the Staff has
11 a lot of work and we sympathize with their concerns.
12 Therefore, we propose that there be a bifurcated
13 filing, as I said, with the Intervenors filing and
14 then the Staff filing on December 5 which gives the
15 Staff a chance to see everybody's testimony before
16 they file anything.

17 We think it is a reasonable time
18 frame. We have given ourselves a very short period
19 of time to reply, including over the holiday period,
20 as a matter of moving this along, and then we believe
21 that hearings in mid January are also feasible and
22 would be an expeditious way to proceed.

1 So that's the basis for our proposal.
2 I would be happy to address the arguments advanced in
3 the motion filed yesterday, but I perceive you want
4 me to refrain from that for now and I will do so. I
5 would only note that there is no schedule set forth
6 in that motion. It is a series of assertions without
7 any dates.

8 So I will stop there and wait for your
9 further directions.

10 JUDGE JONES: All right. Thank you, Mr.
11 Ambrose. You will get a further opportunity to
12 address scheduling, including other parties'
13 proposals, yet this morning.

14 Let me ask one question quickly here.
15 Do any of the other parties need to hear the schedule
16 read by Mr. Ambrose reread at this time?

17 MR. PLIURA: This is Tom Pliura. I want to
18 make sure. I didn't get everything written down,
19 Your Honor. Could he just go over that one more
20 time?

21 JUDGE JONES: Sure. Mr. Ambrose, do you want
22 to do that?

1 MR. AMBROSE: Sure, be glad to do so.
2 Intervenor testimony to be filed on November 14,
3 2007, Staff testimony to be filed on December 5,
4 2007, any Enbridge reply or rebuttal testimony to be
5 filed on December 31, 2007, and any hearings in mid
6 January and I suggested the dates of January 16 and
7 17 of 2008.

8 JUDGE JONES: Thank you, Mr. Ambrose. Let's
9 turn to the Commission Staff at this time to hear
10 their reasons for proposing the schedule that they
11 offered this morning.

12 MS. VON QUALEN: Thank you, Judge. This is Jan
13 Von Qualen. Staff proposes Staff/Intervenor
14 testimony on December 19. That provides enough time
15 for Staff and Intervenors to send out two rounds of
16 data requests in order to find out information. We
17 think that amount of time would be necessary to
18 prepare a case, find out the facts and prepare the
19 testimony in the case.

20 Staff then proposes that rather than
21 setting a date for company testimony, that we set it
22 for a status hearing for further scheduling, because

1 it has been our experience that sometimes there are
2 more issues raised in Staff/Intervenor direct
3 testimony than the company may foresee and they may
4 need more time than what we would think of today
5 giving them.

6 That's not in order to make it
7 impossible for the company to file rebuttal testimony
8 sooner than that. Certainly, Staff would not object
9 to an early filing of rebuttal testimony by the
10 company.

11 But we do think the status hearing
12 would be necessary to talk about further scheduling
13 in the event that it was necessary for the company to
14 file rebuttal testimony, and there may be need for
15 further rounds of testimony from Staff and
16 Intervenors. So that we would have an opportunity
17 for rebuttal testimony and the company for
18 surrebuttal testimony. All of that could be
19 determined at the status hearing in January.

20 JUDGE JONES: All right. Thank you. I think
21 the proposal from Mr. Turner on behalf of those he
22 represents was circulated yesterday and that included

1 his reasons for that. So they are in there.

2 There are, no doubt, various other
3 parties who wish to express their views on these
4 competing schedules, either to support them or
5 otherwise. I think we will turn to the other parties
6 at this time. In doing so I will note that the
7 proponents of the various schedules will have further
8 opportunity to comment on other people's schedules as
9 well, and they will also have the opportunity to
10 reply to those who have expressed positions with
11 respect to their schedules.

12 Let's turn to the proposal from Mr.
13 Turner that was circulated yesterday. It appears
14 there are some other parties who either support that
15 proposal and wish to say so or have some other
16 comments along those lines to make to us. So let's
17 find out.

18 MR. TURNER: Your Honor, this is Mercer Turner.
19 May I insert a brief comment?

20 JUDGE JONES: What would be the nature of that?

21 MR. TURNER: Well, it appears as though there
22 is a certain commonality between what Ms. Von Qualen

1 just spoke about and my motion in that she recognizes
2 the need for Intervenor to have at least two rounds
3 of discovery, and that is the purpose of the schedule
4 I set out, is to allow for that to occur.

5 So I just wanted to indicate to Your
6 Honor that there is a common thinking there between
7 the Staff and what I have suggested.

8 JUDGE JONES: Thank you. All right. Now to
9 turn to other parties, are there other parties on the
10 phone who wish to support or otherwise comment on the
11 proposal advanced by Mr. Turner?

12 MR. BEYERS: This is Bob Beyers, Your Honor,
13 and I have already indicated that I wholeheartedly
14 support Mr. Turner's recommendations.

15 Frankly, I am not that experienced
16 with the Commerce Commission but I have done an awful
17 lot of trial practice. And with this many parties
18 and this many persons involved and with the dollar
19 amounts and the ramifications to the -- potential
20 ramifications to the Intervenor, the time schedule
21 proposed by the petitioner, frankly, is shocking and
22 it feels like someone is trying to jam something down

1 my throat. They can talk all they want about fair
2 and reasonable. Just on its face it offends me. But
3 I won't go further than that.

4 At this point certainly two rounds of
5 inquiry by the Intervenor is going to be necessary.
6 I think that is recognized by the Staff as well as by
7 Mr. Turner, and those things just don't happen
8 overnight.

9 I think certainly if I was -- you
10 know, Enbridge has had years and years of experience
11 and they can talk all they want about how simple
12 things are because possibly they appear simple to
13 them and they would like them to appear simple to
14 others. But those of us that are learning as we go
15 on this and representing people who know nothing
16 about pipelines and eminent domain rights and all
17 these things, such as the Intervenor, need a little
18 bit of time to digest, study, review, consider and
19 analyze before they can respond properly and get the
20 adequate experts to review things.

21 And certainly a matter of weeks, if
22 this was in state or federal court, it would be

1 laughable in my opinion, but.

2 JUDGE JONES: Okay, thank you, Mr. Beyers. Did
3 other parties have any comment, either supporting or
4 otherwise commenting on Mr. Turner's schedule?

5 MR. ROBINSON: Judge, Jon Robinson for private
6 landowners, Intervenors. I would adopt the comments
7 of Mr. Turner and Mr. Beyers. We favor the longer
8 schedule that he proposed.

9 I would state finally that at the very
10 least the Staff's proposed schedule would somehow be
11 sort of a compromise in between. But I would favor
12 Mr. Turner's for the reasons stated.

13 JUDGE JONES: You are cutting out on us. Are
14 you on a speaker?

15 MR. RUUB: Judge, this is Eric Ruub.

16 JUDGE JONES: Yes, sir.

17 MR. RUUB: Yes. Briefly, on behalf of the
18 County we also support Mr. Turner's motion and his
19 proposed schedule.

20 And part of the reasons are really
21 related to the reasons why the County decided to
22 intervene. We are in the process of taking a look at

1 an east side corridor, highway, which we believe and
2 we need time to study, but we believe that the
3 proposed pipeline will intersect with that corridor
4 that's under study now.

5 There has been over a million dollars
6 spent to pay for a consulting firm to finalize this
7 corridor and that's anticipated -- we anticipate that
8 to be done sometime late March of next year, just to
9 get the plan on paper so that the county board and
10 the Town of Normal and the City of Bloomington can
11 approve it. So it is not a simple process.

12 I did not agree with the proposal of
13 Enbridge because while their route for the pipeline
14 is known, our corridor on the east side of the county
15 is also in the process of development but it is
16 pretty well known. And so I think we need a little
17 extra time to take a look at the bigger picture here.

18 So the County endorses Mr. Turner's
19 schedule, and as a backup, I guess, we would endorse
20 Staff's proposal because at the very least we will
21 get another status hearing. Thank you.

22 JUDGE JONES: All right. Thank you, Mr. Ruub.

1 Other than the proponents of the schedule are there
2 any other parties on the phone who would like to
3 express their support for Mr. Turner's proposed
4 schedule or otherwise comment on the scheduling
5 proposals?

6 MR. PLIURA: This is Tom Pliura on behalf of
7 several numerous Intervenors. I would support
8 Mr. Turner's proposal.

9 I think that it's important for
10 everyone to know there has been a contemporaneous
11 filing of a federal case right now that is currently
12 before the Central District in federal court in
13 Springfield on the issue of whether or not Enbridge
14 maintains a valid easement over much of this
15 property.

16 The part of their application that has
17 been filed suggests or implies that they hold an
18 easement over 120 miles plus of the proposed 170-mile
19 pipeline. Respectfully, many of the Intervenors
20 maintain that Enbridge does not hold such a valid
21 easement. And we anticipate and hope to get a
22 decision on that.

1 Obviously, if the federal court rules
2 that Enbridge does not hold a valid easement, that
3 would be something that the Commission would
4 certainly want to hear about and know about.

5 There are, you know, a variety of
6 other issues involving whether or not it seems like
7 this is a proposal for a petroleum pipeline and
8 obviously we have got a motion to dismiss in here,
9 whether or not a public utility is a petroleum
10 pipeline versus an oil pipeline, is one of the
11 issues.

12 There is a whole another issue about
13 public use from the filings that we have and the
14 responses to Staff from Enbridge. We don't know who
15 owns the product that's in the pipeline. We don't
16 know where the product is going. And while we have
17 actually submitted requests for discovery to
18 Enbridge, those answers have not been released yet
19 and it is just not going to happen overnight.

20 While we don't anticipate necessarily
21 requiring subpoenas and formal discovery issues, that
22 certainly could be necessary if we don't know who is

1 going to own the product in the pipe and where that
2 product is going. I think specifically one of the
3 questions was was this product actually going to be
4 leaving the United States, exported out of the United
5 States. And I think Enbridge's own response was that
6 they have no knowledge of where this is going.

7 I think it all bodes well as to
8 whether or not this is or isn't a matter for public
9 need or public use. Those things are going to take
10 some time to find out.

11 For those reasons I join in Mercer
12 Turner's proposed deadline.

13 JUDGE JONES: Thank you, Mr. Pliura. Are there
14 other -- other than proponents of the schedule are
15 there other parties who wish to comment on those
16 proposals?

17 MR. HOLSTINE: Your Honor, this is Andy
18 Holstine and one of the intervening petitioners. And
19 I also would agree that Mercer Turner's schedule
20 makes the most sense.

21 You know, as Mr. Ambrose pointed out,
22 you know, the petition, they have had it on record

1 since August but there has been no discovery to date.
2 And as far as only having a few weeks to review the
3 direct testimony and not having any answers to
4 discovery at this point and it seems that all sides
5 agree that there are several rounds of discovery that
6 are necessary, you know, certainly it makes sense to
7 push this out to some future date just to see a
8 status on the compliance with discovery where things
9 are asked and second rounds of discovery, if things
10 go that way.

11 In addition, I think most of the other
12 intervening petitioners in this or several of them at
13 least are faced with dealing with clients who have
14 owned this property since they broke the prairie 150
15 years ago, their families have. And my clients are
16 actually both in nursing homes, one in Ohio, one in
17 McLean County but not in Bloomington. And certainly
18 there is a lot of issues that way.

19 And as far as hoping to get this
20 through in the next couple of weeks, I think that
21 would be certainly unfair to all the landowners that
22 this is going to affect as opposed to one company

1 that is trying to push this through so quickly.

2 So I would adopt Mr. Turner's motion
3 as well.

4 JUDGE JONES: Okay, thank you. Are there other
5 parties on the phone other than the proponents who
6 wish to comment on the scheduling proposals? All
7 right. Let the record show there are not, at least
8 at this time.

9 Let's turn back to the proponents of
10 those schedules. Ms. Von Qualen, do you have any
11 further comments?

12 MS. VON QUALEN: This is Jan Von Qualen. The
13 only further comment that I would have is that Staff
14 would not object to a longer schedule, but Staff
15 would object to a shorter schedule than what was
16 proposed by Staff.

17 JUDGE JONES: Anything further?

18 MS. VON QUALEN: No.

19 JUDGE JONES: Okay. Mr. Ambrose?

20 MR. AMBROSE: Well, thank you, Your Honor. Let
21 me first respond to this argument about people being
22 disadvantaged and unable to do discovery, etc.

1 That is disingenuous, to say the
2 least. The Rules provide that requests for
3 information in discovery shall be made in a timely
4 fashion and the discovery shall not be used to delay
5 or interfere with the completion of a hearing.

6 Everybody in this case has had a
7 perfect chance to make any discovery requests to us
8 any time they wanted to from the time we filed the
9 petition and certainly from the time we sent out our
10 testimony. Mr. Turner has done nothing. Mr. Pliura
11 submitted something yesterday but failed, first of
12 all, to attached it and then said finally or actually
13 he tried it last week and it didn't work and then he
14 sent it. So none of that has been done in a timely
15 fashion.

16 The only purpose for these discovery
17 arguments is to delay and harass the company in the
18 completion of its plans, to be quite frank about it.
19 If anybody submits a timely request, we will respond
20 to it in a timely fashion, as long as it is relevant
21 and on point to the proceeding.

22 In addition to that, everybody in this

1 case who has filed an appearance has received copies
2 of our responses to the Staff's data requests and
3 they continue to do so. So there is no lack of
4 information on the part of these people. That is
5 simply disingenuous.

6 Now, let me make another point. Mr.
7 Beyers argues that there is a lot of money to be
8 considered here and lots of valuation issues. This
9 is not a valuation proceeding. This is a
10 certification proceeding. The difference is that if
11 there is any valuation proceedings, it will come in
12 negotiations or in condemnation proceedings.
13 Valuation of the properties is not a matter for this
14 proceeding.

15 In addition to which we have made it
16 expressly clear in our testimony, and I will say so
17 again on the record, that we will pay everybody whose
18 property we may need an easement in the full fee
19 value of that property, not easement values but fee
20 values. Therefore, there can't be any question that
21 we intend to pay fair values, fair market values, for
22 these properties. So arguments implying that we are

1 trying to rip people off are, again I will say,
2 disingenuous and irrelevant.

3 Let me make another point regarding
4 Mr. Pliura's argument about the existing easements on
5 some of these properties. That is simply not an
6 issue in this case and Mr. Pliura has misstated that
7 many times to many people unfortunately and created
8 confusion.

9 Our intention is to route this
10 pipeline along the route in some properties where
11 there is a pre-existing pipeline easement which we
12 own. Whether or not that easement is valid is
13 immaterial to this proceeding because that route is
14 the best route for this pipeline, whether or not we
15 use the existing pipeline easement.

16 There is a federal case or a case that
17 Mr. Pliura served in state court and we removed it to
18 federal court to determine the validity of that
19 easement. That's where those issues belong and
20 that's where they will be resolved. They do not
21 belong in this case and have nothing to do with this
22 proceeding. This Commission is not empowered to

1 construe the terms of that easement and render legal
2 decision thereon. This is, as I said, a
3 certification proceeding.

4 One other comment, counsel for McLean
5 County expressed his concern about their road. As we
6 have advised counsel and I will advise him again, we
7 work routinely and every day with counties and state
8 authorities and municipalities on all these matters
9 and can easily do so if you sit down with us and
10 discuss the matter with us. In addition to which,
11 anything that the County wants to do, since it is a
12 governmental body, it has the authority to do when
13 and if it makes up its mind what it wants to do. So
14 that's not a reason to delay our proceeding.

15 MR. TURNER: Hello, hello, hello?

16 JUDGE JONES: Did someone just join the call?

17 MR. AMBROSE: Who was saying hello?

18 MR. TURNER: This is Mercer Turner. I thought
19 I got disconnected. I heard a bunch of noise on the
20 line and I didn't know what happened.

21 MR. AMBROSE: Your Honor, may I continue?

22 JUDGE JONES: Mr. Ambrose, you may.

1 MR. AMBROSE: Thank you very much.

2 Let me make a couple of comments on
3 the motion filed by Mr. Turner. He somehow thinks
4 that the Lakehead proceeding from the mid 60s or mid
5 90s, I am sorry, is relevant and that is simply
6 nonsense. That was a completely different economic
7 environment when the supplies of crude oil were
8 abundant and readily available under secure
9 conditions. That is not the case in the world we
10 live in today. As I said before, oil is now over \$90
11 a barrel. The economy needs new and dependable
12 supplies and that's what we are trying to do.

13 Likewise, in response to both
14 Mr. Pliura and Mr. Turner, the ownership of the
15 product that we are being moved is irrelevant. The
16 ownership of the oil sands in Alberta is irrelevant.
17 We are applying for status as a common carrier by
18 pipeline with a public duty to move liquids being
19 transported through a pipeline. That's what we
20 intend to do. As a common carrier we have a duty to
21 move such liquids for anyone who presents them for us
22 under the applicable tariffs. So who owns the

1 product and where it ends up is really not relevant.

2 The other point about going outside of
3 the country and the theories of xenophobia being
4 advocated by the proponents of our project and I find
5 it very, very troubling and improper in these
6 proceedings.

7 You know, there is nothing that the
8 motion says that is correct, and I will point out one
9 glaring thing that I note from just off the top of my
10 head. There are no 10,000 pages of transcript in the
11 Lakehead proceeding. I was there. I know it wasn't
12 anywhere near there. The analogy is totally
13 inapplicable.

14 For all these reasons I suggest that
15 what's happening here is an attempt to delay the
16 proceeding to increase the bargaining power of the
17 landowners in connection with our right-of-way
18 acquisition efforts. That is nothing more than an
19 example of why in these circumstances eminent domain
20 is appropriate. But I won't make that argument at
21 the moment.

22 I suggest that we try to move this

1 proceeding along efficiently and effectively, and not
2 bog down with issues that don't belong here. Thank
3 you.

4 JUDGE JONES: All right. Thank you,
5 Mr. Ambrose.

6 Do other parties have any reply to
7 that?

8 MR. PLIURA: Yes, this is Tom Pliura. I would
9 like to reply.

10 JUDGE JONES: Go ahead.

11 MR. PLIURA: Very respectfully, I do take some,
12 great exception with Mr. Ambrose's comments. I try
13 not to take them personally, obviously.

14 But, you know, I think that we are
15 talking about a proposal, you know, as a public
16 utility to move product from point A to point B.
17 Specifically, the Public Utilities Act calls into
18 question environmental issues. It is right out of
19 the Public Utilities Act whether or not it has an
20 effect on greenhouse gas emissions. Whether it, you
21 know, affects the environment is per se directly
22 mentioned in the Public Utilities Act.

1 And talking about whether it comes
2 from Canada and the oil sands, all of that is
3 directly outlined under the Public Utilities Act with
4 regards to the environment. I think he would be
5 remiss if he said, well, we only need to look at what
6 environmental aspects or effects it might have here
7 in the 170-mile proposal.

8 With regards to Mr. Ambrose's comments
9 that I was somehow delayed in getting out materials,
10 I certainly take exception with that. I am a sole
11 practitioner. We have a lot else going on in our
12 office. But we try to be timely.

13 It is somewhat onerous. We are not a
14 200-ember firm but we submitted our stuff
15 electronically to all attorneys. We became aware
16 that although our office, our sole practitioner
17 office, will accept electronic transmissions that are
18 12 megabytes in size, apparently Sidley and Austin
19 and some of the other groups can't accept a large
20 e-mail file. We only became aware of that yesterday
21 when we tried to follow up on it or the day before.

22 It is my understanding that all of

1 those now have been received and I am glad that they
2 got them. But there is certainly no attempt to
3 delay.

4 I will comment in this respect, that I
5 understand Enbridge wants to get this thing heard.
6 We don't have any -- I don't have any desire to stall
7 or anything else. But admittedly it is a big
8 project. And I don't know when the last time the ICC
9 had the number of Intervenorors that they have got in
10 this particular case, but just by the sheer volumes
11 of Intervenorors I think that it would say that there
12 are some people concerned about this.

13 Mr. Ambrose's comments about
14 Enbridge's application and the high price of oil
15 really doesn't have any effect on anything. Whether
16 or not oil is \$90 a barrel or \$150 a barrel really
17 doesn't have any effect on the process of the ICC
18 hearing this application. You know, the issue about
19 the common carrier status again is outlined in the
20 Public Utilities Act and environmental issues are
21 very important.

22 I don't have not the least bit of

1 desire to delay this application. I want it heard,
2 but at the same time I think that to say, well,
3 whether or not it goes out of the country, well,
4 Mr. Ambrose's comments on whether or not the oil or
5 oil byproduct, the pitch byproduct, if it is planned
6 for the pipe leaves the country, is, notwithstanding
7 his comment that it isn't important, it is very
8 important.

9 Because one of the main issues is if
10 the product is leaving and going to China, for
11 example, then the whole question of whether that's
12 going to benefit the public, whether this whole
13 project is for the public or the republic of China
14 becomes important and I think those are issues that
15 are going to need to be meted out.

16 One final thing is I don't know about
17 anybody else but I think it is -- we haven't
18 mentioned the holiday period that's coming up. We
19 have got Thanksgiving. We have got Christmas, and I
20 think it behooves everybody to be realistic and say,
21 my golly, you know, it's a very aggressive time
22 schedule, given that the holidays are upon us, to

1 expect that we could do anything during this holiday
2 time period.

3 Again, I understand that Enbridge
4 wants this application heard in a timely manner and
5 that's not our desire to stop that. But with regard
6 to the eminent domain issue, the whole issue,
7 Enbridge has submitted expert testimony on the issue
8 of eminent domain and whether or not holdouts
9 unfairly bring up the cost or rise the cost of the
10 acquisition and that's why eminent domain is needed
11 here.

12 And his comments about the Lakehead
13 proposal being immaterial, Enbridge's own application
14 references that. Their own experts mentioned the
15 Lakehead project, and they have opened the door on
16 that. So when they say, well, it is not important,
17 yet they bring it up as support for the need for
18 eminent domain, then I think they have opened the
19 door.

20 All that being said, I just want a
21 fair time to adequately deal with this and have it
22 properly heard. Thank you.

1 JUDGE JONES: Thank you, Mr. Pliura. Do other
2 parties have any reply to Mr. Ambrose?

3 MR. TURNER: This is Mercer Turner. Your
4 Honor, may I reply?

5 JUDGE JONES: Go ahead.

6 MR. TURNER: I believe that the real question
7 here that we are talking about is fairness in due
8 process. I think all the Intervenors are entitled to
9 their day in court, and I don't think their rights
10 should be trampled by some rush to judgment. It is
11 not necessary. It will not serve any purpose to
12 trample over the family farmers that have farms
13 affected by this petition.

14 Since the filing of this petition I
15 would like everyone on the phone to know that I have
16 had two clients that have an interest in this land
17 pass away. Most of the landowners involved in this
18 are retirement age or older. Not all of them, but a
19 great majority are. And it is very difficult for
20 downstate small law firms to coordinate the
21 communication necessary to provide the representation
22 that is required by the code of ethics that lawyers

1 have to adhere to in order to zealously and properly
2 represent their client. Each individual Intervenor
3 is entitled to due process and his or her day in
4 court. And I think it is proper for Your Honor and
5 for the proceedings of the Illinois Commerce
6 Commission to consider that.

7 What's fair is fair and treating this
8 like it is a small claims case involving a few
9 hundred dollars is entirely inappropriate. We are
10 not here in this proceeding debating necessarily the
11 value of compensation. That is not what was referred
12 to earlier.

13 There is economic testimony presented
14 which talks about millions and millions and millions
15 of dollars of public benefit. The instant that we
16 got that through the e-mail, it was e-mailed to one
17 of the finest economic minds at the University of
18 Chicago to analyze. And despite this individual's
19 brilliance, it has taken some weeks to scrutinize it
20 and to study it. And it is not like you get it one
21 day; you file your testimony the next day. These are
22 things that need to be understood in setting up the

1 scheduling process.

2 We have one of the most brilliant
3 individuals in the entire world that's prepared to
4 testify in this matter. He simply needs some time to
5 analyze it and to put together his thoughts for his
6 testimony. And to say that you can get it one day
7 and respond the next day is not the way legal
8 proceedings are conducted. Thank you.

9 JUDGE JONES: Thank you.

10 MR. BEYERS: This is Bob Beyers, Your Honor.

11 JUDGE JONES: Yes, sir.

12 MR. BEYERS: Mercer Turner just addressed one
13 of the things I was going to address with regard to
14 financial issues, that Mr. Ambrose apparently
15 misconstrued my statement.

16 But a couple things that Mr. Ambrose
17 said that I wanted to specifically address, number
18 one, how he can say it doesn't matter where the
19 product is going when public need is a key issue is
20 beyond my understanding.

21 And, secondly, to gloss over the --
22 you know, say that it doesn't really matter whether

1 we have got this easement or not, why did they put in
2 the petition that they had the easement? They were
3 trying to portray something to the Commission which
4 if it hadn't been pointed out by Intervenor would
5 have had the Commission believing that they did
6 already have this easement.

7 Clearly I brought this matter up
8 before the petition was filed, so they were well
9 aware that there were questions of abandonment of
10 that easement. But there was nothing given in the
11 petition by the petitioners to indicate that there
12 was any issue over that alleged easement. They could
13 have said we have an alleged easement, but that
14 wasn't it. And we get back to the fitness and
15 character and whether this necessary for the company
16 to do. And even if this was to be necessary, all of
17 these matters, I think, are going to take time to
18 develop and scrutinize.

19 JUDGE JONES: Thank you, Mr. Beyers. Are there
20 other parties who have any reply to Ms. Ambrose?

21 MR. RUUB: Yes, Eric Ruub. May I reply?

22 JUDGE JONES: Go ahead.

1 MR. RUUB: Yes, thank you. Just a quick
2 response. I just noticed that the testimony deadline
3 proposal from Enbridge would be the 14th of November.
4 Unfortunately, when you represent a government, you
5 represent a client that can only speak in a certain
6 way. And county boards speak through resolutions and
7 motions.

8 We have not formulated our position
9 quite yet with respect to the pipeline, but I suspect
10 in short order we will. But the county board needs
11 time to pass a resolution and that's how it speaks
12 and that's one means of introducing testimony in
13 these proceedings.

14 Unfortunately, the county board
15 doesn't meet until the 20th of November. So the 14th
16 would certainly not be a favorable deadline for
17 testimony since my county board only meets once a
18 month. The next meeting would be December 18 which
19 would barely fit the testimony deadline proposed by
20 ICC Staff. I suppose it would be possible, but it
21 would at least give us another opportunity to have a
22 meeting to pass a resolution to have certain

1 testimony introduced.

2 So, again, I think that Mr. Turner's
3 schedule is the most favorable to the County. And if
4 we had to, I think we can live with the deadline
5 proposed by ICC Staff. But Enbridge's deadline would
6 disenfranchise our ability to introduce testimony.
7 Thank you.

8 JUDGE JONES: Thank you, Mr. Ruub. Do any
9 other parties have any comment to Mr. Ambrose? All
10 right. Thank you to the parties for your comments.

11 Does Commission Staff have any reply
12 to Mr. Ambrose?

13 MS. VON QUALEN: No, thank you, Judge.

14 JUDGE JONES: Mr. Ambrose, do you have any
15 reply? I will note if you do, I will give the other
16 parties a chance to reply to you. So just be aware.

17 MR. AMBROSE: I understand that. Thank you,
18 Your Honor. And I will be brief and succinct.

19 As you know, in Commission proceedings
20 these complex matters are handled efficiently and
21 expeditiously. Multi-million dollar power plants are
22 rate based within an 11-month period. Why should a

1 certification proceeding require a longer time period
2 than a complex matter like a nuclear or conventional
3 power plant? It just doesn't make any sense.

4 You know, the argument that Mr. Pliura
5 advances about we are shipping oil from Canada
6 through the United States to take it to China is
7 simply absurd. Anybody with a modicum of sense would
8 realize that that doesn't make any commonsense at
9 all.

10 Mr. Turner destroys his own argument
11 when he says he has got an expert at the University
12 of Chicago who is ready to testify and has been
13 looking at it for awhile. That just shows you that
14 you can do these things efficiently if you get to
15 work on them.

16 My only other comment in that regard
17 is, I hear this all the time, we are a small firm and
18 so on and so forth. Well, you know, I sympathize but
19 you undertake to represent a client. If you are
20 going to do so efficiently, that means you better get
21 on with it.

22 With all due respect to Mr. Ruub and

1 the county board, you know, I am reminded of a
2 federal judge who told the county attorney not too
3 long ago at my hearing that county boards operate a
4 lot of ways. They can waive things. They can do
5 things. They don't have to have a board meeting.
6 Those are just arguments for delay and
7 procrastination, frankly, and I suggest they are not
8 worthy of allowing this thing to be unduly dragged
9 out, you know.

10 So I find no substance in any of those
11 arguments. And I suggest that a reasonable schedule
12 as I have proposed is one that will resolve this case
13 efficiently and effectively. Thank you.

14 JUDGE JONES: Thank you, Mr. Ambrose. Any
15 reply to that?

16 MR. PLIURA: Yes, this is Tom Pliura again, and
17 I guess again I would offer that I take exception
18 with what seems to be more personal comments against
19 the attorneys than anything else, saying that anybody
20 with any commonsense would know. And I just -- I
21 feel it is important to maintain a professional
22 liaison here. I do feel that I and all the other

1 attorneys involved, including attorneys for the
2 applicant, use commonsense and what not. I don't
3 think there is any point in using belittling terms
4 like, oh, anybody that must have commonsense would
5 know. That's doesn't serve a purpose.

6 That being said, again I reiterate,
7 Enbridge's own response to the Staff is we don't
8 know, we don't own the oil, we don't know where it is
9 going, we won't have control over it. And the bottom
10 line is this is a determination by the ICC Staff
11 whether or not there is a public need for this
12 project. And, quite frankly, if the product for the
13 pipeline, if the applicant doesn't know where the
14 product is going, then I will offer then it would be
15 impossible for the ICC, in fact, it would probably be
16 reversible error for the ICC to grant the approval of
17 the application. If the applicant --

18 JUDGE JONES: Mr. Pliura, please be brief.
19 This is your third shot, so please wrap up your
20 comment.

21 MR. PLIURA: Point well taken. I agree with
22 Mr. Turner's proposal.

1 JUDGE JONES: Thank you, Mr. Pliura. Any other
2 replies?

3 MR. TURNER: Mercer Turner here briefly, Your
4 Honor. The reason I bring up the University of
5 Chicago is that we are taking this dead seriously
6 that we have acted promptly despite being a small law
7 firm in downstate rural Illinois. And the expert
8 that we have retained actually has a series of
9 questions that he would like answered through the
10 discovery process before he presents his testimony.
11 And ordinarily I believe that's how the legal system
12 works, when matters of fact or matters of law are
13 tried. Thank you.

14 JUDGE JONES: Thank you. Any other parties?

15 MR. AMBROSE: Your Honor, this is Jerry Ambrose
16 again. May I make just one point?

17 JUDGE JONES: Is this a reply to one of the two
18 replies that we just heard?

19 MR. AMBROSE: Yeah.

20 JUDGE JONES: Go ahead.

21 MR. AMBROSE: Okay. Mr. Pliura's argument
22 about where the product goes, what he is talking

1 about is the end product of the refineries that
2 receive the crude oil. They take the crude oil and
3 refine it into a variety of products that the public
4 uses and needs, and they market that and ship it in
5 their own way out to their customers, which includes
6 the people of Illinois and the surrounding states.

7 We don't control what the refineries
8 do. We are a common carrier by pipeline, as I said.
9 We know where the product we are carrying goes to.
10 It goes to the delivery points. After that from the
11 refineries, that's their business. But there is
12 clearly a need for those products. And, again, the
13 idea that anybody can ship crude oil out of the
14 United States these days is not at all reasonable.
15 In fact, there are very few refined products that are
16 shipped out of the United States these days.

17 I am done. Thank you.

18 JUDGE JONES: All right. Thank you. Anyone
19 else? All right. Let the record show no response.
20 Thank you to counsel for various parties for your
21 arguments this morning.

22 A couple quick questions. There were

1 at least a couple of references to a federal case.

2 Does someone have the Docket Number for that case?

3 MR. AMBROSE: We will get it for you in just
4 one second. That was Jerry Ambrose.

5 JUDGE JONES: Thank you.

6 MR. AMBROSE: Well, I may have been too quick.
7 The case is called Kelly, et al., versus Enbridge,
8 the United States District Court, the Central
9 District of Illinois, case number 3-07-CV-3245.

10 JUDGE JONES: Could you repeat that again?

11 MR. AMBROSE: Oh, sure. Glad to. The case, as
12 I said, is called Kelly, et al., versus Enbridge,
13 United States District Court, Central District of
14 Illinois, Springfield Division, case number
15 3-07-CV-3245.

16 JUDGE JONES: Thank you.

17 MR. AMBROSE: It is all available on the
18 electronic docket.

19 JUDGE JONES: Thank you for that citation.

20 Also, briefly there was some reference
21 to some Staff DRs and data requests. Ms. Von Qualen,
22 what is the status of those?

1 MS. VON QUALEN: This is Jan Von Qualen. Staff
2 has sent out one set of data requests -- two sets of
3 data requests and have received nearly all the
4 answers to both requests. Staff will be sending out
5 an additional set of data requests likely today or
6 tomorrow, and Staff anticipates probably the need for
7 subsequent data requests, at least one other round,
8 additional data requests.

9 JUDGE JONES: When did you send out the first
10 set, do you recall?

11 MS. VON QUALEN: It has been about four weeks
12 ago.

13 JUDGE JONES: And you got responses, did you
14 say?

15 MS. VON QUALEN: There are one or two answers
16 which have not been provided yet. Most of the
17 answers have been provided.

18 JUDGE JONES: And do you know when they were
19 provided?

20 MS. VON QUALEN: We received most recently some
21 answers yesterday. We had received some a week or
22 two ago. They have been coming in over the last

1 couple of weeks.

2 JUDGE JONES: And you indicated you are going
3 to send out some more DRs?

4 MS. VON QUALEN: I am sorry?

5 JUDGE JONES: You are going to send out some
6 more DRs today or tomorrow, you say?

7 MS. VON QUALEN: Yes, we anticipate sending out
8 some more. I have just been reminded that the
9 original DRs were sent out the end of August.

10 JUDGE JONES: The ones you are sending out
11 today or tomorrow, are you proposing a response date
12 in those? Not formally today but to the recipient of
13 the DR requests?

14 MS. VON QUALEN: I believe we put in a
15 four-week date, 28 days.

16 JUDGE JONES: Thank you for those
17 clarifications.

18 All right. Before saying anything
19 more about the scheduling proposals which I will get
20 back to in a couple of minutes, I want to turn to
21 another procedural/scheduling matter, that is the
22 motion to dismiss. We have a response date already

1 in the schedule. I think when we last met any dates
2 for replies was left open ended. So at this time I
3 will state for the record that there will be a reply
4 date added to that schedule. It will be five days
5 from today which is November 5. That reply date will
6 be available not just to the original movant. It
7 will also be available to any of the other parties
8 who wish to file replies to the -- any responses that
9 are filed to the motion to dismiss.

10 So, in other words, the motion is on
11 file. There is a date in place now for any responses
12 to that motion. The date that is being added to the
13 schedule will provide an opportunity to other parties
14 to file replies to any responses that are filed.

15 MR. HEALEY: Your Honor, Tom Healey. Just for
16 clarification, to my knowledge we don't have their
17 response yet. Now, is this five days from the date
18 that they respond or five days from the day that --
19 from today's date? I don't think that their response
20 is due until Friday and obviously if the five days is
21 from today, then that will only give us one business
22 day to respond.

1 JUDGE JONES: Yeah, that's a good point. I
2 think five days from the actual response date would
3 be more in order, more in keeping with the five-day
4 window that I mentioned. So I will state at this
5 time that the reply date will be five days from
6 November 2. So the reply date is November 7. And
7 any such replies, as with any other filings relating
8 to this motion, shall be served electronically on
9 other parties and on me.

10 Any other questions with respect to
11 that particular schedule? All right. Let the record
12 show there are not.

13 All right. With respect to overall
14 scheduling approaches and dates, again thanks to the
15 parties for your contributions to the record this
16 morning on that. What I am going to do is to review
17 those positions. There will be a ruling issued
18 within three business days, more likely two business
19 days. It will be Monday at the latest. More likely
20 on Friday there will be a ruling issued
21 electronically with respect to scheduling.

22 Let me check my notes here. All

1 right. That may pretty well cover it for today's
2 purposes, but let me make sure. Did the parties have
3 anything else that needs attention today, at least in
4 your view?

5 MS. VON QUALEN: Judge, this is Jan Von Qualen.
6 I have discussed this with Mr. Pliura and Mr. Turner.
7 But there are a large number of Intervenor, and I
8 clarified with them that each of their clients can be
9 served electronically by serving the attorneys,
10 Mr. Mercer and -- or, I am sorry, Mr. Turner and
11 Mr. Pliura.

12 And I just wanted to confirm with the
13 parties that are on the line that they have provided
14 an e-mail address and are capable of being served
15 electronically.

16 JUDGE JONES: Thank you. When you are asking
17 for that clarification, is that with respect to using
18 counsel's e-mail?

19 MS. VON QUALEN: Yes.

20 JUDGE JONES: And you would like --

21 MS. VON QUALEN: Right. Maybe I should say is
22 there anyone on the line who does not accept service

1 electronically for any filings or data requests that
2 Staff is going to be serving?

3 JUDGE JONES: You mean on behalf of the clients
4 they represent?

5 MS. VON QUALEN: Yes, thank you, Judge.

6 Very good. Thank you.

7 JUDGE JONES: I think the question --

8 MS. VON QUALEN: Silence is golden.

9 JUDGE JONES: It could be. The question has
10 been posed. Does anybody have any problem or
11 clarifications regarding that? All right. Let the
12 record show no response.

13 Anything else you need to hear about
14 that?

15 MS. VON QUALEN: No, thank you.

16 JUDGE JONES: All right. Then does anyone else
17 have any other matters that they believe need to be
18 address for today's purposes other than what's
19 already been taken up?

20 MR. RUUB: Judge, Eric Ruub. I have not filed
21 a written appearance. I have filed a petition to
22 intervene and then provided my appearance on the

1 phone today. Is it recommended that I also put it in
2 writing, mail it to you as well?

3 JUDGE JONES: You can contact the Chief Clerk's
4 office with respect to that. You have indicated you
5 have already filed a Petition to Intervene as well
6 appearing today?

7 MR. RUUB: That is correct.

8 JUDGE JONES: Anyone else?

9 MR. REED: Your Honor, this is Darryl Reed. I
10 just have one minor housekeeping matter. This is
11 directed to the court reporter. We would like a
12 daily transcript, if you don't mind.

13 JUDGE JONES: Thank you, Mr. Reed. I would
14 also thank Mr. Reed for setting up and circulating
15 the call-in number that people used this morning.

16 MR. REED: My pleasure, Your Honor.

17 JUDGE JONES: Anyone else have any other
18 matters for today's status hearing?

19 MR. AMBROSE: Jerry Ambrose, Your Honor.
20 Nothing on behalf of Enbridge.

21 JUDGE JONES: Let the record show that today's
22 status hearing is concluded. As noted, there are

1 some pending matters and there will be some further
2 filings and some rulings to be issued. At this time
3 the matter is continued in accordance with the above.
4 Thank you, all. Have a good day.

5 (Whereupon the hearing in this
6 matter was continued generally.)

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